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From: [REDACTED]**Sent:****To:** [REDACTED]**Cc:** Thu 7/24/2008 4:00 PM**Subject:** RE: Do you have a minute to answer a question about social security tax

Contributions to the thrift savings plan are not includable in income at the time of contribution, but are subject to FICA tax at the time of contribution. Distributions from the thrift savings plan are not subject to FICA. There is no nonduplication rule that applies to TSP. If FICA was not paid at the time of contribution (as is required), distributions from the plan still are not subject to FICA. The nonduplication rule only applies to nonqualified deferred compensation. The tax treatment of thrift savings plan contributions is addressed in section 7701(j)(1) - (3). Those sections essentially say that TSP is to be treated like a qualified plan under 401(a), and contributions to the plan are not includable in income merely because they are elective. Section 7701(j)(3) says that nothing in paragraph (j)(1) shall be construed to provide that basic pay contributed to TSP is not included in the term wages for purposes of 3121(a). Because TSP is like a 401(k) plan, I think the provision that makes contributions to TSP subject to FICA is section 3121(v)(1)(A). Pub 525 says at page 8 that elective deferrals (including elective contributions to TSP) are not included in wages subject to income tax at the time contributed. However, they are included in wages subject to social security and Medicare taxes.